UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte RAJ SINHA

Appeal 2016-002116
Application 12/837,090
Technology Center 2400

Before JEFFREY S. SMITH, WILLIAM M. FINK, and
JOSEPH P. LENTIVECH, *Administrative Patent Judges.*

FINK, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellant[1] seeks our review under 35 U.S.C. § 134(a) of the
Examiner's final rejection of claims 1–15 and 17–21. We have jurisdiction
under 35 U.S.C. § 6(b).

We affirm.

STATEMENT OF THE CASE

Appellant's invention relates to methods and systems for detecting events by analyzing multiple messages retrieved from social media networks. Abstract.[2]

Claims 1, 11, and 15 are the independent claims on appeal. Claim 1 is illustrative of Appellant's invention and is reproduced below:

> 1. A method, comprising:
>
> receiving a plurality of work items via a social media gateway of a contact center;
>
> analyzing, by at least one processor of the contact center the plurality of work items for trends or similarities;
>
> detecting, by the at least one processor a trend or similarity among the plurality of work items;
>
> classifying, by the at least one processor the trend or similarity as an event that has occurred or is occurring; and
>
> generating, by the at least one processor a response to the event, wherein the response to the event is incorporated into a response to each work item having the detected trend or similarity within the plurality of work items, and wherein the response to each work item having the detected trend or similarity within the plurality of work items is customized to each work item.

App. Br. 15.

Claims 1–3, 5–7, and 9–10 stand rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter; and

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[2] Our decision refers to Appellant's Appeal Brief filed May 11, 2015 ("App. Br."); the Examiner's Answer mailed October 8, 2015 ("Ans."); Appellant's Reply Brief filed December 8, 2015 ("Reply Br."); the Final Office Action mailed November 5, 2014 ("Final Act."); and the original Specification filed July 15, 2010 ("Spec.").

Claims 1–15 and 17–21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable in view of Arnett (US 7,197,470 B1; Mar. 27, 2007) and Kaushansky (US 2008/0215607 A1; Sept. 4, 2008).

ANALYSIS

I. Non-Statutory Subject Matter

In rejecting the claims under 35 U.S.C. § 101, the Examiner analyzes the claims using the two-step framework set forth in *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 132 S. Ct. 1289, 1296–97 (2012) and reiterated in *Alice Corporation Pty. Ltd. v. CLS Bank International*, 134 S. Ct. 2347, 2355 (2014). Specifically, as to the first step, the Examiner finds the claims "do no more than receiving blog messages and generating a response," which "is a mental process and/or can be performed by a human using a pen and paper." Ans. 4. The Examiner further finds that "the claim is a whole is directed to a social activity identified by the courts as an abstract idea." *Id.* As to the second step, the Examiner further finds that additional limitations of the claims do not transform the abstract idea into significantly more than the exception itself as exemplified by the "receiving" step of claim 1, which "amounts to merely adding insignificant extra-solution activity . . . e.g., mere data gathering in conjunction with the law of nature or abstract idea." *Id.* at 5 (internal quotations omitted).

As to the first step of the analysis, Appellant contends claim 1 is not simply directed towards receiving blog messages and generating a response, but includes method steps such "classifying, by at least one processor of a contact center the trend or similarity, among the plurality of work items received via a social media gateway" and generating "a response to the event

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wherein the response to the event is incorporated into a response to each work item having the detected trend . . . customized to each work item." Reply Br. 4–5. Appellant contends generating "a customized response to each work item received via a social media gateway is certainly not an abstract idea." *Id.* at 5.

We are not persuaded by this argument. Section 101 "d[oes] not embrace a process defined simply as using a computer to perform a series of mental steps that people, aware of each step, can and regularly do perform in their heads." *SmartGene, Inc. v. Advanced Biological Labs., SA*, 555 Fed. Appx. 950, 954 (Fed. Cir. 2014) (citing *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1371 (Fed. Cir. 2011)). In this regard, we "look to whether the claims in these patents focus on a specific means or method that improves the relevant technology or are instead directed to a result or effect that itself is the abstract idea and merely invoke generic processes and machinery." *McRO v. Bandai Namco Games Am., Inc.*, 837 F.3d 1299, 1314 (Fed. Cir. 2016).

Here, claim 1 does no more than use a "processor" for "analyzing" received internet postings (i.e. "work items"), "detecting . . . a trend or similarity," "classifying . . . the trend or similarity as an event," and "generating . . . a response to the event . . . customized to each work item." App. Br. 15. As an example, the invention could detect a spike in usage of the term "earthquake" in social media postings, determine an estimated location of that event, and retrieve a set of instructions for "acting in the earthquake" provided to all users creating a posting about the event. Spec. ¶ 10. Significantly, aside from the generic "processor" (*see id.* ¶ 86 (general purpose or special-purpose processor or logic circuits programmed to

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perform the method)), we agree with the Examiner (Ans. 4) that the claim can be performed in its entirely "in the human mind, or by a human using a pen and paper." *CyberSource*, 654 F.3d at 1372; *see Alice*, 134 S. Ct. at 2350–51 (determining that generic computer implementation fails to transform the abstract idea into a patent-eligible invention.). Furthermore, Appellant does not explain how claim 1 is limited to any particular algorithm or process for analyzing or classifying the information. *See CyberSource*, 654 F.3d at 1372 ("[C]laim 3 extends to essentially any method of detecting credit card fraud."). Therefore, when viewed as a whole, we agree with the Examiner that the claims are directed to an abstract idea.

As to the second step of the analysis, Appellant presents similar arguments, which we disagree with for substantially the same reasons. Reply Br. 5–6. Specifically, Appellant contends that "the claimed invention addresses the technical problem of detecting the occurrence of an event based on analyzing multiple messages received from social media networks and converted into work items and quickly responding to the same." *Id.* According to Appellant, prior to the invention, there was "no mechanism available to identify that . . . an event has occurred, or is occurring." *Id.* at 6. However, for the reasons discussed above, Appellant directs us to nothing in the claims that limits the claims into something more than "routine mental information-comparison" (e.g., "detecting" and "classifying") and "rule-application processes" (e.g., "generating") using a generic processor. *SmartGene*, 550 Fed. Appx. at 955.

For the foregoing reasons, Appellant has not persuaded us that the Examiner erred in rejecting claim 1 under 35 U.S.C. § 101. We, therefore,

sustain the Examiner's rejection of claim 1, as well as claims 2, 3, 5–7, 9, and 10, for which Appellant provides no separate patentability arguments. *See* 37 C.F.R. § 41.37(c)(1)(iv).

II. Obviousness

Upon consideration of the evidence on this record and Appellant's contentions, we find that the preponderance of the evidence on this record supports the Examiner's conclusion that the subject matter of Appellant's claims 1–15 and 17–20 is unpatentable over the combination of Arnett and Kaushansky. Ans 6–21. Accordingly, we sustain the Examiner's rejection of claims 1, 9, 14, and 21 for the reasons set forth in the Answer, which we incorporate herein by reference. Because the arguments for claims 11 and 15 are grouped with claim 1 based on similar disputed limitations (App. Br. 5), we also sustain the rejection of claims 11 and 15. We also sustain the rejection of dependent claims 2–8, 19, 12, 13, and 17–20 for which Appellant presents no separate patentability arguments. *See* 37 C.F.R. § 41.37(c)(1)(iv).

We provide the following for emphasis only. Appellant argues Arnett fails to teach or suggest "classifying '*the trend or similarity* _as an event that has occurred or is occurring_,'" as recited in the independent claims. App. Br. 5–7; Reply Br. 6–7. According to Appellant, the cited portions of Arnett refer to "Actor Classification" and generally describe how *actors are classified* by correlating their postings to objective data, which is not equivalent to classifying the trend as an event that has occurred or is occurring. Reply Br. 7.

We are not persuaded by this argument, because it does not address the Examiner's complete findings. Although the Examiner relies on the

description of actor classification, the Examiner emphasizes the description of how actors' *postings* are correlated with changes in objective data "(e.g., stock price changes, increased book sales, etc.)" that are tracked over a time-period, such as a day. Ans. 15 (quoting Arnett, 10:19–25 (Examiner's emphasis)). Moreover, as the Examiner finds (Ans. 15–16), once actors are identified as buzz accelerators and buzz decelerators, the analysis subsystem uses this information to predict "real-world events" such as the rise or fall of a stock price being discussed. Arnett, 10:42–53; *see also id.* at 10:4–17 (correlating actor behavior and community moods with objective sources to forecast market behavior). Appellant does not explain why these descriptions do not support the Examiner's conclusion that Arnett teaches or suggests *classifying a trend as an event* (e.g. change in stock price) *that has occurred or is occurring.*

Appellant also argues that Arnett fails to teach or suggest generating "a response to the event." App. Br. 7–8; Reply Br. 7–8. Specifically, Appellant contends the report presented to end-users is not "a response to the event," because "the 'end-users' of *Arnett* are not the 'work items' as claimed." Reply Br. 8.

We are not persuaded. Appellant is correct that the Examiner relies on report generation subsystem 36, which generates reports for end-users either upon request or automatically. Ans. 16–17 (citing Arnett, 9:24–10:17, 14:26–15:28). However, the Examiner does not equate end-users with work items. Instead, the Examiner finds that Arnett's generates a report to each topic or "objective data," which the Examiner considers as teaching the recited "work item." Ans. 17. We agree with this finding. The cited portions of Arnett describe the reports as based on the results of the analysis

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subsystem where, as discussed above, the objective data and postings are used to identify trends such as stock changes. Arnett, 9:50–53, 14:27–29. For example, automatically generated reports may display companies where activity is "spiking the greatest over the last day," companies "being discussed by the top five buy signalers," or "real-time trends" being discussed. *Id.*, 14:51–65. As such, we find Arnett teaches or suggests generating responses to work items even if such reports are ultimately provided to end-users.

For the foregoing reasons, Appellants have not persuaded us that the Examiner erred in rejecting claims 1–15 and 17–20 under 35 U.S.C. § 103.

DECISION

We affirm the Examiner's final rejection of claims 1–15 and 17–21.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED